

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/10/2019

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KEVIN LOWE, :  
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Petitioner, :  
:  
-against- :  
:  
UNITED STATES OF AMERICA, :  
Respondent. :  
:  
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18 Civ. 898 (LGS)  
14 Cr. 055 (LGS)

**ORDER**

LORNA G. SCHOFIELD, District Judge:

WHEREAS, Petitioner has filed a motion for the Government to comply with his Freedom of Information Act (“FOIA”) request and a motion that he not be charged to receive the material. Dkt Nos. 3, 6, 9;

WHEREAS, the U.S. Attorney’s Office (“USAO”) represents that it has forwarded the FOIA request to the U.S. Department of Justice, Executive Office for United States Attorneys Freedom of Information Privacy Staff (the “EOUSA FOIA Office”), and that the EOUSA FOIA Office is in the process of responding and has requested the USAO to gather responsive records. Dkt No. 39;

WHEREAS, Petitioner’s motion for the Government to comply with his FOIA request does not comply with Act’s administrative exhaustion requirements. *See e.g.*, 5 U.S.C. § 552(a)(4)(B) (setting forth conditions that must be met prior to a Federal Court having jurisdiction to enjoin an agency from withholding records);

WHEREAS, Courts must “liberally construe pleadings and briefs submitted by pro se litigants,” *see McLeod v. Jewish Guild for the Blind*, 864 F.3d 154, 156 (2d Cir. 2017), and must

“afford a pro se litigant special solicitude,” *Hardaway v. Hartford Pub. Works Dep’t*, 879 F.3d 486, 489 (2d Cir. 2018) (internal quotation marks and citation omitted). It is hereby

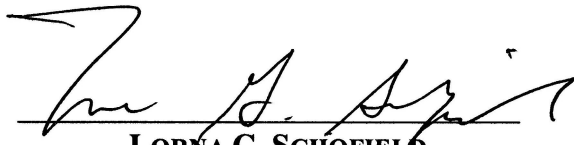
**ORDERED** that Petitioner shall promptly make his FOIA Request with the EOUSA FOIA Office, but in any event no later than **January 9, 2020**. The EOUSA FOIA Office and the USAO shall continue their efforts to respond to Petitioner’s pending request. It is further

**ORDERED** that the Government’s application to deny Petitioner’s motions related to his FOIA request is **DENIED** without prejudice to renewal upon Petitioner’s refiling the request with the proper authorities. It is further

**ORDERED** that no later than **January 29, 2020**, the Government shall file a letter regarding the status of the responses to Plaintiff’s FOIA requests.

The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Petitioner.

Dated: December 10, 2019  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**